



October 3, 2008

VIA ECFS

Ms. Dana Shaffer, Chief
Wireline Competition Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Ex Parte* filing in WC Docket Nos. 07-21, 05-342

Dear Ms. Shaffer:

Recent *ex parte* filings made by rural carriers in the Inter-Carrier Compensation Reform proceeding demonstrate that the outcome of the pending special access rulemaking will influence the availability of affordable high speed internet access to rural parts of this country.¹ This evidence confirms the need for post-forbearance cost assignment compliance plans that produce reliable data relevant to the Commission's statutory obligations, including evaluating the impact of AT&T's special access rates on broadband internet access service in rural America. AT&T's compliance plan will not produce such data. The Commission cannot credibly state that it supports affordable broadband internet access in rural America and approve AT&T's compliance plan.

In an *ex parte* filed on September 12, 2008 in CC Docket No. 01-92 and WC Docket No. 04-36, the National Telecommunications Cooperative Association explains, *inter alia*, that,

All large, vertically-integrated communications carriers, such as AT&T and Verizon, should be required to provide non-discriminatory, cost-based special access transport services needed to reach the Internet backbone.

¹ See, National Telecommunications Cooperative Association, September 12, 2008 *ex parte*, contact in CC Docket No. 01-92, WC Docket No. 04-36, (Letter to Secretary, Federal Communications Commission from Daniel Mitchell, Vice President - Legal and Industry); Great Plains Communications, September 17, 2008 *ex parte* contact in CC Docket No. 01-92 and CC Docket No. 99-68, (Letter to Secretary, Federal Communications Commission from Ken Pfister, Vice President - Strategic Policy).



Dana Shaffer
Ex Parte
October 3, 2008

Increasing special access transport costs to the Internet backbone can harm rural consumers and ROR carriers and the problem worsens when those carriers must purchase special access services from large vertically integrated companies to connect their customers to the Internet backbone. To achieve and maintain the goal of universal affordable broadband service for all Americans, the Commission should regulate the terms, conditions and prices of Internet backbone services, including special access transport needed to reach the Internet backbone, to ensure that large, vertically-integrated Internet backbone providers do not abuse their market power.²

For reasons already explained, AT&T's compliance plan would virtually guarantee that the Commission would be unable to determine whether special access rates are excessive and thereby evaluate NTCA's concerns.³ As Sprint Nextel has so well put it, AT&T's compliance plan, "[l]acks substance and accountability" and "[a]ny Commission attempt to obtain data under its proposal will likely be met with fierce resistance or even flat refusal."⁴

AT&T's fierce resistance to disclosing data relevant to NTCA's points is manifest in its insistence that the Commission terminate the on-going special access investigation – a particularly bold assertion given that the Commission concluded that it has on-going regulatory responsibilities in light of AT&T's exclusionary market power. The data that AT&T wants to keep from public view, data that would allow decision makers and the public to determine its return on interstate special access service, is at least relevant to adjusting the price caps formula for interstate special access service rates. Given the importance of

² In footnote 24 to its September 12, 2008 *ex parte*, NTCA describes special access transport to include, "[p]acket-switched services, optical transmission services (e.g., frame relay, ATM, LAN, Ethernet, video-transmission, optical network, wave-based, etc.), TDM-based services (e.g., DS-1, DS-3, etc.) and other future transport services to reach the Internet backbone." Other footnotes omitted. Great Plains *ex parte* (p.7 of presentation attached to letter) shows its Internet backhaul costs "increasing dramatically."

³ See AdHoc Telecommunications Users Committee, Opposition to AT&T's Compliance Plan; Sprint/Nextel, TW Telecom and COMPTel, Comments on the AT&T Compliance Plan, WC Docket Nos. 07-21 and 05-342, filed August 18, 2008.

⁴ Sprint, September 15, 2008, *ex parte* communication in WC Docket No 07-21 (Letter to Secretary, Federal Communications Commission from Anna M. Gomez, Vice President - Government Affairs).



Dana Shaffer
Ex Parte
October 3, 2008

special access transport to the availability of broadband service in rural America, it would be inexplicable for the Commission, on the one hand, to express concern about the availability of rural broadband service but, on the other hand (1) bow to AT&T's pressure to terminate the special access rate investigation or (2) approve AT&T's compliance plan.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'James S. Blaszak'.

James S. Blaszak
Levine, Blaszak, Block & Boothby,
LLP2001 L Street, NW, Suite 900
Washington, DC 20036
Phone: (202) 857-2550

*Counsel for Ad Hoc Telecommunications
Users Committee*

Cc: Nicholas Alexander
Amy Bender
Scott Bergmann
Scott Deutchman
Greg Orlando
Al Lewis
John Hunter